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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/509,666	09/27/2004	Hyung-Tae Lim	59520-00008	2354

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EXAMINER

MAHAFKEY, KELLY J

ART UNIT	PAPER NUMBER
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1794

MAIL DATE	DELIVERY MODE
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07/29/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/509,666	Applicant(s) LIM, HYUNG-TAE	
	Examiner Kelly Mahafkey	Art Unit 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 April 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-7,9,17-19,21 and 22 is/are pending in the application.
- 4a) Of the above claim(s) 7 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-6,9,17-19,21 and 22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 September 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/12/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Amendments made April 30, 2008 have been entered.

Claims 2-7, 9, 17-19, 21, and 22 are pending;

Claim 7 has been withdrawn from consideration.

Election/Restrictions

Applicant's election without traverse of Group I in the reply filed on April 30, 2008 is acknowledged. Claim 7 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on April 30, 2008.

Specification

The abstract of the disclosure does not commence on a separate sheet in accordance with 37 CFR 1.52(b)(4). A new abstract of the disclosure is required and must be presented on a separate sheet, apart from any other text.

Drawings

Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2-6, 9, 17-19, 21, and 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "large" in claims 2-6 and 17-19 is a relative term which renders the claim indefinite. The term "large" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. It is unclear as to what size or weight the green onion need be in order to be considered "large".

The term "fragrant" in claims 2-6 and 17-19 is a relative term which renders the claim indefinite. The term "fragrant" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. It is unclear as to what degree of odor the mushroom need possess in order to be considered "fragrant".

Claim 2 recites, "A noodle product, comprising a teabag containing powders or pellets of vegetables comprising radish juice, bean sprout juice, green tea leaves, large green onion, green chili pepper, dried fragrant mushroom, sea tangle, garlic, onion, and dried Pollack shreds." The product as claimed is not clear. Claim 2 is directed to a "noodle product", however the claim never recites a noodle(s); It is unclear as to how the tea bag is structurally related to the noodle product; it is unclear if the package is attached with the noodle product or if the noodle is contained within the package or if the noodle product is related to the package in some other way. There seems to be no connection between the noodle product and the tea bag.

Claims 3-6 and 17-19 recite, A noodle product comprising a teabag containing... green tea leaves, a large green onion, green chili pepper, dried fragrant mushroom, sea tangle, garlic, onion and dried Pollack shreds, wherein radish juice and bean sprout juice are mixed with a *conventional powdered soup base*... Applicant's specification states. Page 6 lines 10-13, that a conventional soup base comprises large green onion, green chili pepper, dried fragrant mushroom, sea tangle, and garlic. It is unclear if the "conventional soup base" recited in the claims is the soup base material contained

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within the teabag or if there is another soup base which is added to form the final product.

Claim 3 recites, "A noodle product, comprising a teabag containing powders or pellets of vegetables comprising green tea leaves, a large green onion, green chili pepper, dried fragrant mushroom, sea tangle, garlic, onion, and dried Pollack shreds, wherein radish juice and bean sprout juice are mixed with a conventional powdered soup base to form a liquid mixture, which is then contained in an additional wrapper." The product as claimed is not clear. Claim 3 is directed to a "noodle product", however the claim never recites a noodle(s); It is unclear as to how the tea bag is structurally related to the noodle product; It is unclear if the package is attached with the noodle product or if the noodle product is contained within the package or if the noodle product is related to the package in some other way; It is unclear how the additional wrapper with the liquid mixture is related to the noodle product; It is unclear if the additional wrapper with the liquid mixture is attached with the noodle product or if the noodle product is contained within the additional wrapper or if the noodle product is related to the additional wrapper in some other way. There seems to be no connection between the noodle product, the tea bag and the liquid mixture.

Claim 4 recites, "A noodle product, comprising a teabag containing powders or pellets of flakes comprising lyophilized large green onion, green chili pepper, dried fragrant mushroom, and vegetables comprising green tea leaves, sea tangle, garlic, onion, and dried Pollack shreds, wherein radish juice and bean sprout juice are mixed with a conventional powdered soup base to form a liquid mixture, or powders or pellets of radish juice and bean sprout juice are mixed with a conventional powdered soup base to form a solid mixture, which is then contained in an additional wrapper." The product as claimed is not clear. Claim 4 is directed to a "noodle product", however the claim never recites a noodle(s); It is unclear as to how the tea bag is structurally related to the noodle product; It is unclear if the package is attached with the noodle product or if the noodle product is contained within the package or if the noodle product is related to the package in some other way; It is unclear how the additional wrapper with the radish juice and bean sprout juice mixture is related to the noodle product; It is unclear if

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the additional wrapper with the mixture is attached with the noodle product or if the noodle product is contained within the additional wrapper or if the noodle product is related to the additional wrapper in some other way. There seems to be no connection between the noodle product, the tea bag and the radish juice and bean sprout juice mixture.

Claim 5 recites, "A noodle product, comprising a teabag containing flakes comprising lyophilized green tea leaves, a large green onion, green chili pepper and dried fragrant mushroom, and another tea bag containing powders or pellets of vegetables comprising sea tangle, garlic, onion, and dried Pollack shreds, wherein radish juice and bean sprout juice are mixed with a conventional powdered soup base to form a liquid mixture, or powders or pellets of radish juice and bean sprout juice are mixed with a conventional powdered soup base to form a solid mixture, which is then contained in an additional wrapper." The product as claimed is not clear. Claim 5 is directed to a "noodle product", however the claim never recites a noodle(s); It is unclear as to how the tea bags are structurally related to the noodle product; It is unclear if the packages are attached with the noodle product or if the noodle product is contained within the packages or if the noodle product is related to the packages in some other way; It is unclear how the additional wrapper with the radish juice and bean sprout juice mixture is related to the noodle product; It is unclear if the additional wrapper with the mixture is attached with the noodle product or if the noodle product is contained within the additional wrapper or if the noodle product is related to the additional wrapper in some other way. There seems to be no connection between the noodle product, the tea bags and the radish juice and bean sprout juice mixture.

Where applicant acts as his or her own lexicographer to specifically define a term of a claim contrary to its ordinary meaning, the written description must clearly redefine the claim term and set forth the uncommon definition so as to put one reasonably skilled in the art on notice that the applicant intended to so redefine that claim term. *Process Control Corp. v. HydReclaim Corp.*, 190 F.3d 1350, 1357, 52 USPQ2d 1029, 1033 (Fed. Cir. 1999). The term "Pollack" in claims 2-5 is used by the claim to mean "vegetable", while the accepted meaning is "fish." The term is indefinite because the specification

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does not clearly redefine the term. The claims recite, "Vegetables comprising... dried Pollack shreds", thus classifying the fish product as a vegetable. It is unclear as to if applicant is attempting to redefine the term "Pollack" or if applicant has made a typo.

Claims 3-5 recite, "A noodle product... wherein radish juice and bean sprout juice are mixed with a conventional powdered soup base..., which is then contained in an additional wrapper". The phrase "additional wrapper" is unclear as no initial wrapper is recited in the claims, thus it is unclear as to how one can have an "additional wrapper". It is unclear as to how the product is packaged and wrapped.

Claim 9 recites "A noodle product... prepared by the method of claim 7". Claim 7 has been canceled, thus the claim is unclear. It is unclear as to if claim 9 is meant to be independent or depend upon claim 2 or depend upon another independent claim.

Claim 21 recites, "A method of forming vegetable broth, said method comprising exposing the noodle product of claim 2 to water, heating the water, and controlling the amount of time the teabag is exposed to the water, wherein the amount of said noodle product added to the water is determined by the time of said exposure." The product as claimed is not clear. Claim 21 is directed to a "vegetable broth", however the claim never recites a vegetable broth; It is unclear as to how the tea bags are related to the vegetable broth; it is unclear if the tea bags are used to make the broth or if the tea bags are added to the broth or if the tea bags are related to the broth in some other way.

Claim 21 recites the limitation "controlling the amount of time the teabag is exposed to the water" in claim 2. There is insufficient antecedent basis for this limitation in the claim. The claim has not set forth that the teabag is added to the water and claim 2 is unclear in how the teabag is connected to the noodle product.

Claim 21 recites, "wherein the amount of said noodle product added to the water is determined by the time of said exposure". It is unclear as to how this determination is made. It is unclear as to when the noodle is added before the time of exposure. It is further unclear as to what the "exposure" is to.

Claim 22 recites, "A method of forming vegetable broth without vegetable residues, said method comprising exposing the noodle product of claim 2 to water and

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heating the water, wherein the teabag inhibits vegetable residue from entering said vegetable broth.” The product as claimed is not clear. Claim 22 is directed to a “vegetable broth”, however the claim never recites a vegetable broth; It is unclear as to how the tea bags are related to the vegetable broth; it is unclear if the tea bags are used to make the broth or if the tea bags are added to the broth or if the tea bags are related to the broth in some other way.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-4, 6, 17, 18, 21, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baek (KR 1995-016294 Abstract only) in view of the combination of Bittman (How to Cook Everything Simple Recipes for Great Food Pages 41-44, 51, 499-502, 524-525, and 601) and Taka (Green tea Soup- Raka Tea Garden Specialty Pages 1-4 <http://www.takateagarden.com.au/brewing.htm> August 25, 2001 Date obtained from <http://webarchive.org>).

Baek teaches of a noodle soup package in which the powdered soup base is packaged separately. Baek teaches that the powdered soup base is contained within a tea-bag type of package so that the soup can be cooked without having to open the wrapper and the consumer can have a sense of security that the insoluble additives will not enter into the soup and be consumed. Refer to the Abstract.

Baek is silent to the powdered soup base as including radish juice, bean sprout juice, green tea leaves, green onions, green chili pepper, dried mushrooms, sea tangle, garlic, onion, and dried Pollack shreds as recited in claims 2-4, to the radish juice and bean sprout juice as mixed with the soup base to form a liquid mixture which is contained in an additional wrapper as recited in claims 3 and 4, to the amount of each of

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the ingredients as recited in claims 6, 17, and 18, to forming the vegetable broth by heating water and exposing the soup package to the water for a determined time as recited in claims 21 and 22.

As admitted by applicant, specification page 6 lines 10-13, at the time the invention was made, it was conventional for a soup base to include freeze dried, i.e. lyophilized, large green onions, green chili pepper, dried fragrant mushroom, sea tangle, and garlic.

Bittman teaches that soup is made by starting with water and adding means of making it taste better- usually meat, poultry, fish, or aromatic vegetables, and seasonings (Page 41 column 1). Bittman teaches that any vegetable can be added to stock and that stems of herbs and dried spices can be added to soup stock to improve flavor (Page 51 Table: Eight Simple Additions to Any Stock). Bittman teaches that stock is used to make soups taste better. Bittman teaches that stock is liquid in which solids have been cooked but wherein the solids are not included (page 41). Bittman teaches that onions are a common ingredient in soup stock (page 41 column 2). Bittman teaches that it is preferable to remove fat and oil from the stock (pages 42-43 Stock Techniques: Considering Fat). Bittman teaches that any leftovers can be included in soups (Page 44). Bittman teaches that vegetables, including radishes can be added to the stock (Page 44 The Basics of Soup and Page 601 Radishes). Bittman teaches that fruit flavors can be added as juice, such as lemon juice (Page 52 Lime and Garlic Soup). Bittman teaches that beans and bean sprouts are a good source of protein that can be used in cooking soups (Pages 499-502 and 524-525).

Taka teaches of green tea soup which includes a bag of green tea, onions, and cooked slices of fish.

Regarding the ingredients in the powdered soup base it would have been obvious to one of ordinary skill in the art at the time the invention was made to include lyophilized, large green onions, green chili pepper, dried fragrant mushroom, sea tangle, and garlic in order to form a conventional flavored soup base. It would have been further obvious to one of ordinary skill in the art at the time the invention was made to include other known soup ingredients, including radish juice (inherently contained in

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radish), bean sprout juice (inherently contained in bean sprouts), green tea leaves, onion, and dried fish, such as Pollack fish, as taught by Bittman and Taka, in order to obtain a soup with the flavor resulting from the respective known soup flavoring ingredients. One would have been further motivated to add an amount of the said ingredient depending on the intensity of the respective ingredients and to include a form of the ingredients, freeze dried powders or liquids depending on which form was readily available. Further, attention is invited to *In re Levin*, 84 USPQ 232 and the cases cited therein, which are considered in point in fact situation of the instant case. At page 234, the Court stated as follows: This court has taken the position that new recipes or formulas for cooking food which involve the addition or elimination of common ingredients, or for treating them in ways which differ from the former practice, do not amount to invention, merely because it is not disclosed that, in the constantly developing art of preparing food, no one else ever did the particular thing upon which the applicant asserts his right to a patent. In all such cases, there is nothing patentable unless the applicant by a proper showing further establishes a coaction or cooperative relationship between the selected ingredients, which produces a new, unexpected and useful function. In *re Benjamin D. White*, 17 C.C.P.A. (Patents) 956, 39 F.2d 974, 5 USPQ 267; In *re Mason et al.*, 33 C.C.P.A. (Patents) 1144, 156 F.2d 189, 70 USPQ 221. Regarding the radish juice and bean sprout juice as mixed with the soup base to form a liquid mixture which is then contained in an additional wrapper, as stated above, one would have been motivated to use the form of the ingredients, freeze dried powders or liquids depending on which form was readily available. It would have been obvious to one of ordinary skill in the art at the time the invention was made to mix all the ingredients, including the radish and bean sprout juice, of the soup base and then include the mixture in a wrapper for sale. To do so would have been obvious in order to form a broth which could be sold for use as a soup base which contained all the desired ingredients.

Regarding forming the vegetable broth by heating water and exposing the soup package to the water for a determined time, Bittman teaches that the basis for soup or the stock is formed by heating water with solids which are then removed from the stock.

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It would be well known in the art at the time the invention was made to form vegetable broth by heating water and exposing solid ingredients until the desired flavor is obtained in the water. To do so would have been obvious in order to get a good flavor broth for a soup base and would not impart a patentable distinction to the claims. It would have been further obvious to one of ordinary skill in the art at the time the invention was made to remove the tea bag containing the soup flavorings once the desired flavor broth was obtained in order to prevent the broth from being over flavored.

Claims 5 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baek (KR 1995-016294 Abstract only) in view of the combination of Bittman (How to Cook Everything Simple Recipes for Great Food Pages 41-44, 51, 499-502, 524-525, and 601) and Taka (Green tea Soup- Raka Tea Garden Specialty Pages 1-4 <http://www.takateagarden.com.au/brewing.htm> August 25, 2001 Date obtained from <http://webarchive.org>) and Kim (KR 20-0174363 Abstract only).

Baek teaches of a noodle soup package in which the powdered soup base is packaged separately. Baek teaches that the powdered soup base is contained within a tea-bag type of package so that the soup can be cooked without having to open the wrapper and the consumer can have a sense of security that the insoluble additives will not enter into the soup and be consumed. Refer to the Abstract.

Baek is silent to the powdered soup base as including radish juice, bean sprout juice, green tea leaves, green onions, green chili pepper, dried mushrooms, sea tangle, garlic, onion, and dried Pollack shreds as recited in claim 5, to the radish juice and bean sprout juice as mixed with the soup base to form a liquid mixture which is contained in an additional wrapper as recited in claims 5, to the soup base as included in multiple tea bags as recited in claim 5, and to the amount of each of the ingredients as recited in claims 19.

As admitted by applicant, specification page 6 lines 10-13, at the time the invention was made, it was conventional for a soup base to include freeze dried, i.e.

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lyophilized, large green onions, green chili pepper, dried fragrant mushroom, sea tangle, and garlic.

Bittman teaches that soup is made by starting with water and adding means of making it taste better- usually meat, poultry, fish, or aromatic vegetables, and seasonings (Page 41 column 1). Bittman teaches that any vegetable can be added to stock and they stems of herbs and dried spices can be added to soup stock to improve flavor (Page 51 Table: Eight Simple Additions to Any Stock). Bittman teaches that stock is used to make soups taste better. Bittman teaches that stock is liquid in which solids have been cooked but wherein the solids are not included (page 41). Bittman teaches that onions are a common ingredient in soup stock (page 41 column 2). Bittman teaches that it is preferable to remove fat and oil from the stock (pages 42-43 Stock Techniques: Considering Fat). Bittman teaches that any leftovers can be included in soups (Page 44). Bittman teaches that vegetables, including radishes can be added to the stock (Page 44 The Basics of Soup and Page 601 Radishes). Bittman teaches that fruit flavors can be added as juice, such as lemon juice (Page 52 Lime and Garlic Soup). Bittman teaches that beans and bean sprouts are a good source of protein that can be used in cooking soups (Pages 499-502 and 524-525).

Taka teaches of green tea soup which includes a bag of green tea, onions, and cooked slices of fish.

Kim teaches of a package for soup which allows the user to adjust the amount of the additive to the ramyeon as well as the soup itself. Kim teaches of a divided package for separating various additives. Refer to the abstract.

Regarding the ingredients in the powdered soup base it would have been obvious to one of ordinary skill in the art at the time the invention was made to include lyophilized, large green onions, green chili pepper, dried fragrant mushroom, sea tangle, and garlic in order to form a conventional flavored soup base. It would have been further obvious to one of ordinary skill in the art at the time the invention was made to include other known soup ingredients, including radish juice (inherently contained in radish), bean sprout juice (inherently contained in bean sprouts), green tea leaves, onion, and dried fish, such as Pollack fish, as taught by Bittman and Taka, in order to

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obtain a soup with the flavor resulting from the respective known soup flavoring ingredients. One would have been further motivated to add an amount of the said ingredient depending on the intensity of the respective ingredients and to include a form of the ingredients, freeze dried powders or liquids depending on which form was readily available. Further, attention is invited to *In re Levin*, 84 USPQ 232 and the cases cited therein, which are considered in point in fact situation of the instant case. At page 234, the Court stated as follows: This court has taken the position that new recipes or formulas for cooking food which involve the addition or elimination of common ingredients, or for treating them in ways which differ from the former practice, do not amount to invention, merely because it is not disclosed that, in the constantly developing art of preparing food, no one else ever did the particular thing upon which the applicant asserts his right to a patent. In all such cases, there is nothing patentable unless the applicant by a proper showing further establishes a coaction or cooperative relationship between the selected ingredients, which produces a new, unexpected and useful function. *In re Benjamin D. White*, 17 C.C.P.A. (Patents) 956, 39 F.2d 974, 5 USPQ 267; *In re Mason et al.*, 33 C.C.P.A. (Patents) 1144, 156 F.2d 189, 70 USPQ 221.

Regarding the radish juice and bean sprout juice as mixed with the soup base to form a liquid mixture which is then contained in an additional wrapper, as stated above, one would have been motivated to use the form of the ingredients, freeze dried powders or liquids depending on which form was readily available. It would have been obvious to one of ordinary skill in the art at the time the invention was made to mix all the ingredients, including the radish and bean sprout juice, of the soup base and then include the mixture in a wrapper for sale. To do so would have been obvious in order to form a broth which could be sold for use as a soup base.

Regarding the soup base as included in multiple tea bags, it would have been obvious to one of ordinary skill in the art at the time the invention was made for the flavoring ingredients to be in multiple tea bags so that the user can select the amount of each additive desired in the soup, as taught by Kim.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baek (KR 1995-016294 Abstract only) in view of the combination of Bittman (How to Cook Everything Simple Recipes for Great Food Pages 41-44 and 51).

Baek teaches of a noodle soup package in which the powdered soup base is packaged separately. Baek teaches that the powdered soup base is contained within a tea-bag type of package so that the soup can be cooked without having to open the wrapper and the consumer can have a sense of security that the insoluble additives will not enter into the soup and be consumed. Refer to the Abstract.

Baek is silent to the soup base as including lyophilized powders and to the noodle product as including an oil free flavor infused noodle as recited in claim 9.

As admitted by applicant, specification page 6 lines 10-13, at the time the invention was made, it was conventional for a soup base to include freeze dried, i.e. lyophilized, large green onions, green chili pepper, dried fragrant mushroom, sea tangle, and garlic.

Bittman teaches that soup is made by starting with water and adding means of making it taste better- usually meat, poultry, fish, or aromatic vegetables, and seasonings (Page 41 column 1). Bittman teaches that any vegetable can be added to stock and they stems of herbs and dried spices can be added to soup stock to improve flavor (Page 51 Table: Eight Simple Additions to Any Stock). Bittman teaches that it is preferable to remove fat and oil from the stock (pages 42-43 Stock Techniques: Considering Fat). Bittman teaches reducing fat in soup in order to provide a low fat food and to prevent a greasy tasting soup (Pages 42-43 Stock Technique: Considering Fat).

Regarding the soup base as including lyophilized powders it would have been obvious to one of ordinary skill in the art at the time the invention was made to include lyophilized vegetable powders in order to form a conventional flavored soup base.

Regarding the noodle product as an oil free, it would have been obvious to one of ordinary skill in the art at the time the invention was made for all of the soup components, including the noodles, to have as little fat and oil as possible in order to produce a soup which was low-fat and was not greasy tasting as taught by Bittman (pages 42-43).

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Regarding the noodle as flavor infused, it would have been obvious to one of ordinary skill in the art at the time the invention was made to cook the noodle with the soup base in order to form a final product without wasting a separate batch of water to cook the noodles. By cooking the noodle with the soup base, one would inherently infuse the noodle with the soup base flavors and thus the final soup product would contain flavor infused noodles.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kelly Mahafkey whose telephone number is (571) 272-2739. The examiner can normally be reached on Monday through Friday 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Keith Hendricks can be reached on (571) 272-1401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Lien Tran/
Primary Examiner
Art Unit 1794

/Kelly Mahafkey/
Examiner
Art Unit 1794